IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3214 OF 2006

Shri Ramanna P. Shetty. ...Petitioner.
Vs.
Shri Dhanaji S.Khanvilkar ...Respondent.
....
Mr. R.S. Deshmukh for the Petitioner.
.....

**CORAM : DR.D.Y.CHANDRACHUD, J.**

**June 21, 2006**.

**P.C.**

The suit instituted by the Petitioner was under Section 41 of the Presidency Small Causes Court Act, 1882. Under Section 41, the Court of Small Causes has jurisdiction to entertain all suits and proceedings between a licensor and licensee or a landlord and tenant. It has been a settled principle of law that a 'licence' postulates a licence for consideration and that a case of gratuitous licence is not governed by Section 41. In the present case, there is absolutely no evidence to establish that the Respondent was a licensee for consideration of the Petitioner. The facts have been discussed in para 11 of the judgment of the Court of Small Causes. The conclusion does not suffer from any error. The Petition is dismissed. It is, however, clarified that it

would be open to the Petitioner to adopt such proceedings as are open in law in the Court of the competent jurisdiction.

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